

AMENDED IN SENATE AUGUST 18, 2000

AMENDED IN SENATE AUGUST 7, 2000

AMENDED IN SENATE JUNE 27, 2000

AMENDED IN ASSEMBLY MAY 17, 2000

AMENDED IN ASSEMBLY MAY 8, 2000

AMENDED IN ASSEMBLY APRIL 24, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2623

Introduced by Assembly Member Rod Pacheco

February 25, 2000

An act to add Section 11105.75 to the Penal Code, relating to criminal background information.

LEGISLATIVE COUNSEL'S DIGEST

AB 2623, as amended, Rod Pacheco. Department of Justice: criminal background checks.

Under existing law, the Department of Justice provides criminal background information to counties and to various state departments, with respect to applicants for licensure, certification, or employment.

The bill would provide that if the requesting agency or entity denies a license, certificate, or employment based upon the information received from the department that is not fingerprint verified, that the agency or entity notify the applicant of its decision, and that the applicant would be

permitted to appeal the decision on the grounds that the applicant is not the person so identified by the department.

By imposing additional duties on local agencies and entities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11105.75 is added to the Penal
2 Code, to read:

3 11105.75. (a) (1) If, in the course of performing a
4 criminal history background investigation for an agency
5 or entity *statutorily* authorized to receive a criminal
6 history, the Department of Justice determines that it
7 appears that the applicant has criminal history record
8 information that the requesting agency is *statutorily*
9 authorized to receive, but ~~that~~ the identity of the
10 applicant cannot be verified with fingerprints, the
11 department shall ~~notify the agency or entity requesting~~
12 ~~the criminal background clearance of conviction~~
13 ~~disposition information and inform the agency or entity~~
14 ~~that the criminal background information~~ *provide a copy*
15 *of the criminal history record to the requesting agency or*
16 *entity but shall note any entries as to which the identity*
17 *of the subject has not been fingerprint verified.*

18 (2) The department shall compare all available
19 identifying characteristics of the applicant with those that
20 appear in the criminal history information before



1 responding to the requesting agency or entity with
2 conviction disposition information that has not been
3 fingerprint verified.

4 ~~(3) The department shall inform the applicant that the~~
5 ~~probable identification has been made and what~~
6 ~~characteristics were used in making the identification.~~
7 ~~The department shall also inform the applicant that the~~
8 ~~applicant may challenge the identification.~~

9 (b) If an agency or entity denies a license, certificate,
10 or employment based upon information received from
11 the department that is not fingerprint verified, the
12 agency or entity shall notify the applicant of its decision
13 *and that he or she may challenge the identification.* In
14 that case, the applicant may appeal the decision of the
15 agency or entity on the grounds that the applicant is not
16 the person so identified.

17 (c) Neither the department nor any of its employees
18 or any requesting agency or entity shall be liable to any
19 applicant for misidentifications made pursuant to this
20 section.

21 SEC. 2. Notwithstanding Section 17610 of the
22 Government Code, if the Commission on State Mandates
23 determines that this act contains costs mandated by the
24 state, reimbursement to local agencies and school
25 districts for those costs shall be made pursuant to Part 7
26 (commencing with Section 17500) of Division 4 of Title
27 2 of the Government Code. If the statewide cost of the
28 claim for reimbursement does not exceed one million
29 dollars (\$1,000,000), reimbursement shall be made from
30 the State Mandates Claims Fund.

